

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARIO URBINA,

Plaintiff,

v.

O. ONYEJE,

Defendant.

Case No.: 1:21-cv-01623-SKO (PC)

**ORDER TO SHOW CAUSE WHY MOTION
TO PROCEED *IN FORMA PAUPERIS*
SHOULD NOT BE DENIED**

21-DAY DEADLINE

Plaintiff Mario Urbina has filed a motion to proceed *in forma pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915. (Doc. 3.) According to the certified account statement attached to his motion, Plaintiff had \$1,623.25 in his inmate trust account as of July 2, 2021, and \$604.60 as of October 25, 2021. (*Id.* at 4.) This is enough to pay the \$402 filing fee in this action. Therefore, Plaintiff must show why he is entitled to proceed *in forma pauperis*.

Proceeding “in forma pauperis is a privilege not a right.” *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965). While a party need not be completely destitute to proceed *in forma pauperis*, *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339-40 (1948), “the same even-handed care must be employed to assure that federal funds are not squandered to underwrite, at public expense, either frivolous claims or the remonstrances of a suitor who is financially able, in whole or in material part, to pull his own oar,” *Doe v. Educ. Enrichment Sys.*, No. 15-cv-2628-MMA-MDD, 2015 U.S. Dist. LEXIS 173063, *2 (S.D. Cal. 2015) (citation omitted). Hence, “the court

1 shall dismiss the case at any time if the court determines that the [plaintiff's] allegation of poverty
2 is untrue." 28 U.S.C. § 1915(e)(2)(A).

3 According to his inmate trust account, Plaintiff has adequate funds to pay the filing fee for
4 this action. Accordingly, the Court ORDERS Plaintiff, **within 21 days** of the date of service of
5 this order, to show cause in writing why his motion to proceed IFP should not be denied. **Failure**
6 **to respond to this order will result in a recommendation that this action be dismissed for**
7 **failure to obey a court order.**

8 IT IS SO ORDERED.
9

10 Dated: **November 9, 2021**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE